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HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 12 MED-QUEST DIVISION

CHAPTER 1723

MEDICAL ASSISTANCE TO ALIENS AND REFUGEES

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SUBCHAPTER 1

GENERAL PROVISIONS

§17-1723-1 Purpose. The purpose of this chapter is to establish medical assistance requirements for eligibility and participation in emergency assistance to aliens who do not qualify for non-emergency related medical assistance under Title XIX and the refugee resettlement program. [Eff 08/01/94; am 05/17/97] (Auth: HRS §346-14;) (Imp: HRS §§346-14, 346-56; 42 C.F.R. §435.139)

§17-1723-2 Definition. As used in this chapter: "Qualified alien" means:

- (1) An alien who is lawfully admitted as a permanent resident under the INA;
- (2) An alien who is granted asylum under section 208 of the INA;
- (3) A refugee admitted to the United States under section 207 of the INA;
- (4) An alien who is paroled into the United States under section 212(d)(5) of the INA for a period of at least one year;

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- (5) An alien whose deportation is withheld under section 243(h) of the INA;
- (6) An alien who is granted conditional entry under section 203(a)(7) of the INA as in effect before to April 1, 1980; and
- (7) An alien who has been battered or subjected to extreme cruelty in the United States by a spouse or parent, and has been approved for or has a petition pending to be granted status by INS as a battered spouse, a child, or a parent of a battered child under clauses (ii), (iii) and (iv) of section 204(a)(1)(A) or clauses (ii) and (iii) of section 204(a)(1)(B) of the INA. [Eff 05/17/97; am 12/27/97] (Auth: HRS §346-14) (Imp: HRS §346-56; 42 C.F.R. §435.406)

SUBCHAPTER 2

EMERGENCY MEDICAL ASSISTANCE FOR ALIENS WHO DO NOT QUALIFY FOR NON-EMERGENCY MEDICAL ASSISTANCE UNDER TITLE XIX

§17-1723-3 Purpose. The purpose of this subchapter is to describe the special provisions for the coverage of emergency medical care services required by aliens who do not qualify for non-emergency related medical assistance under Title XIX and the eligibility requirements for that coverage. [Eff 08/01/94; am 05/17/97] (Auth: HRS §346-14; 42 C.F.R. §435.10) (Imp: 42 C.F.R. §§435.139, 435.406(c), 440.255(c))

§17-1723-4 Definitions As used in this subchapter:

"Illegal alien" means an alien who is not lawfully admitted for permanent residence in the United States or was admitted legally for a limited period and did not leave when that time expired.

"Ineligible alien" means an alien who is lawfully admitted but as a non-immigrant and only for a temporary or specified period of time such as visitors, tourist, workers, students and diplomats;

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"Non-qualified alien" means an alien who does not meet the requirements of a qualified alien but is not an illegal or ineligible alien. [Eff 08/01/94; 11/25/96; am 05/17/97] (Auth: HRS §346-14; 42 C.F.R. §435.10) (Imp: 42 C.F.R. §§435.139, 435.406(c))

§17-1723-5 Eligibility requirements. (a)

Illegal, ineligible, qualified and non-qualified aliens are eligible for emergency services if the conditions of both subsections (b) and (c) are met.

(b) These aliens shall have a medical condition, including emergency labor and delivery, manifesting itself in acute symptoms of sufficient severity such that the absence of immediate medical attention could be expected to result in:

- (1) Placing the patient's health in serious jeopardy; or
- (2) Serious impairment to bodily functions; or
- (3) Serious dysfunction of any bodily organ or part.

(c) These aliens shall also meet all other categorical and financial eligibility criteria for medical assistance. The only criteria waived under the provisions of this section is that an individual be either a U.S. citizen or legal permanent resident alien. Otherwise, the following conditions shall apply:

- (1) Aliens who are aged, blind, or disabled shall meet the categorical and financial eligibility requirements of applicants and recipients of medical assistance for aged, blind, or disabled individuals described in chapter 17-1721;
- (2) Aliens who are not aged, blind, or disabled shall meet the categorical requirements described in section 17-1723-5.1 and the financial requirements in section 17-1727-14 or section 17-1730-9 and subchapter 3 of chapter 17-1730.
- (3) Aliens who are not aged, blind, or disabled who do not meet the categorical requirements described in section 17-1723-5.1 are not eligible for assistance;
- (4) Illegal and ineligible aliens are not required to furnish a SSN while qualified and non-qualified aliens must furnish or apply for a SSN as a condition of eligibility.

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[Eff 08/01/94; am 05/17/97;
am 12/27/97] (Auth: HRS §346-14; 42
C.F.R. §435.10) (Imp: 42 C.F.R. §§435.139,
435.406(c))

§17-1723-5.1 Categorical requirements for the Title IV related medical assistance. (a) A child who is under nineteen years of age or under twenty-one years of age if receiving child welfare services, foster care maintenance payments or adoption subsidy payments shall be categorically eligible for assistance under this subchapter. The child may be living with a specified relative in a residence maintained as the child's home. A home shall exist provided the relative exercises responsibility for the care and control of the child, even though either the child or relative is temporarily absent from the home. A child shall be considered living with a specified relative even though the child is under the jurisdiction of the court, or legal custody is held by an agency that does not have physical custody of the child.

Persons considered to be specified relatives of the child shall include natural parents, legal parents, adoptive parents, stepparents, siblings, adoptive siblings, stepsiblings, any blood relatives including those of half blood, first cousins, nephews, nieces, and persons of the preceding generations as denoted by prefixes of grand, great, great-great and spouses of any person named even after death or divorce.

(b) A specified relative under sixty-five years of age shall be categorically eligible only if the relative is maintaining a home for a child who is deprived of parental support due to the death, continued absence from the home, incapacity, or unemployment of one or both of the child's parents as defined below.

(1) The absence of either parent from the home shall interrupt or terminate the parent's functioning as a provider of support, physical care, or guidance for the child and the absence is expected to last at least one month.

(A) A parent shall not be considered absent if the absence is not based solely on performance of active duty in the uniformed services of the United States;

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- (B) A parent shall be considered absent from the home if the parent is sentenced by a court to perform unpaid public work or unpaid community service during working hours and is permitted to live at home.
- (2) The incapacitating condition of either parent must be expected to last at least thirty days as verified through current written medical or psychiatric reports.
- (3) A parent is considered unemployed if the parent is employed less than twenty hours per week for at least one month.
- (4) The deprivation factors of death, continued absence from the home, and incapacity of the child's natural or adoptive parents shall be considered before a determination of deprivation due to unemployment of a parent is made.
- (c) The unborn child of a pregnant woman shall be treated as if the child were born and living with the mother to determine the mother's eligibility only.
- (d) The following applicants or recipients shall be categorically ineligible for Title IV-related medical assistance:
 - (1) Persons who are certified as blind or disabled according to the criteria used by the Social Security Administration; and
 - (2) Persons who are eighteen years old but under sixty-five years old, employed and receiving or are eligible for employer sponsored health coverage through an employer.
[Eff 12/27/97] (Auth: HRS §346-14)
(Imp: HRS §346-14; 42 C.F.R. §430.25)

§17-1723-6 Limitations of coverage. (a) Medical assistance coverage for these aliens shall be limited to coverage of emergency medical services without which the individual's health would be placed in serious jeopardy and could result in serious impairment to bodily functions or serious dysfunction of any bodily organ or part.

(b) Coverage will be provided through the existing fee for services program.

(c) Services related to organ transplant procedures are not covered. [Eff 08/01/94; am 05/17/97] (Auth: HRS §346-14; 42 C.F.R. §435.10) (Imp: 42 C.F.R §440.255(c))

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§§17-1723-7 to 17-1723-9 (Reserved).

SUBCHAPTER 3

REFUGEE RESETTLEMENT PROGRAM

§17-1723-10 Purpose. The purpose of this subchapter is to establish the medical assistance requirements for eligibility and participation in the refugee resettlement program. [Eff 08/01/94]
(Auth: HRS §346-14) (Imp: HRS §§346-14, 346-56)

§17-1723-11 Definitions. As used in this subchapter:

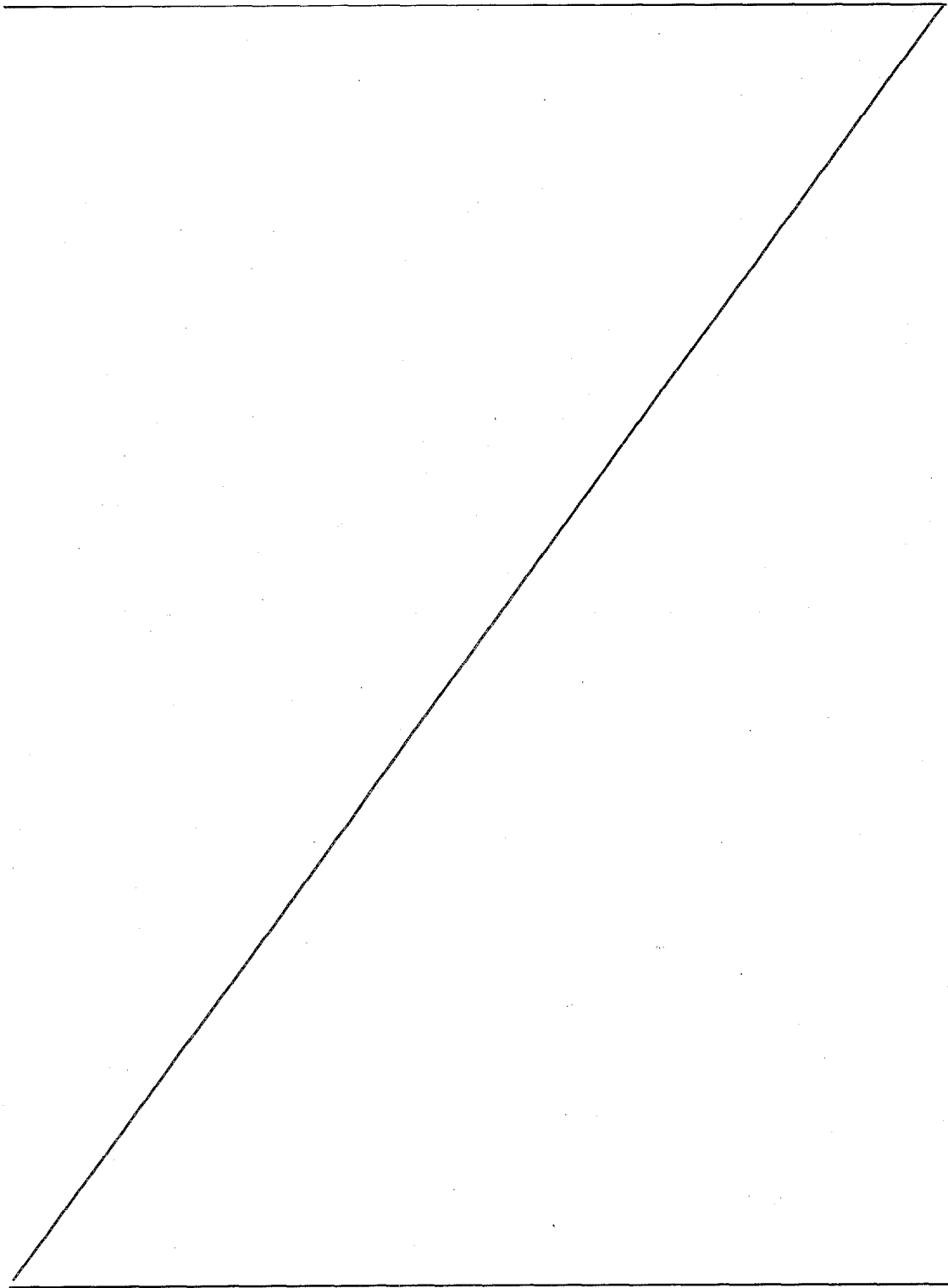
"Administrative hearing" means an administrative proceeding which affords an aggrieved person an opportunity to present an appeal before the department's hearing officer.

"Assistance unit" means persons whose needs, income, and assets are considered in determining eligibility for medical assistance.

"Caretaker relative" means a relative who provides care and supervision to children.

"Categorical relatedness" means requirements which an individual shall meet in order to be eligible for assistance for a specific program.

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"Full-time training" means that the refugee is enrolled in at least thirty hours of training in a program as part of an employability plan approved by the service agency which has been approved by the department.

"Refugee" means a person who is outside of the country of the person's nationality or last place of habitual residence, is unable or unwilling to use the protection of that country because of persecution or a well founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, has been admitted into the United States by the Immigration and Naturalization Service (INS) as a refugee and, if a dependent of a repatriated United States citizen, has been in the United States for more than ninety days.

"Refugee cash assistance (RCA)" means cash assistance provided to refugees who are ineligible for AFDC or SSI and who have resided in the United States for less than a specified period of time from their initial entry into the country. The specified period of time shall be eight months and may be increased or decreased, subject to the availability of federal funds, by the Office of Refugee Resettlement.

"Refugee medical assistance (RMA)" means medical assistance provided to refugees who are ineligible for the medicaid program and who have resided in the United States for less than a specified period of time from their initial entry into the country. The specified period of time shall be eight months and may be increased or decreased, subject to the availability of federal funds, by the Office of Refugee Resettlement.

"Refugee resettlement program" means the federally funded program, established by section 412(a)(9), Immigration and Nationality Act (8 U.S.C. §1522(a)(9)), for the resettlement of refugees in the United States.

"Service agency" means an agency providing employment services funded under the refugee resettlement program.

"Sponsor" means any person or agency who has assumed the responsibility for assisting a refugee resettle into a community.

"State employment service" means the employment service of the state department of labor and industrial relations.

"Voluntary resettlement agency" means a private,

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nonprofit organization contracted by the federal government to provide initial resettlement services to refugees. [Eff 08/01/94] (Auth: HRS §§346-14, 346-56) (Imp: HRS §346-56; 45 C.F.R. §400.2)

§17-1723-12 Exclusions from the definition of refugee. Excluded from the status of a refugee shall be:

- (1) Dependents of repatriated United States citizens who:
 - (A) Have been in the United States for ninety days or less; and
 - (B) Have one of the following specified relationships to the repatriated citizens:
 - (i) Spouse;
 - (ii) Parents;
 - (iii) Grandparents;
 - (iv) Unmarried minor child, including an adopted child or stepchild;
 - (v) Unmarried adult child, including an adopted child or stepchild, who is dependent because of a handicap;
 - (vi) Spouse's parents;
 - (vii) Spouse's grandparents; or
 - (viii) Minor siblings of the repatriated citizen or the citizen's spouse;
- (2) Individuals from Cuba who:
 - (A) Entered the United States before October 1, 1978, and are registered with the United States Cuban refugee center in Miami, Florida; or
 - (B) Have been admitted into the United States with the INS status of "applicant for asylum" or "Cuban entrant";
- (3) Individuals from Haiti who are admitted into the United States with the INS status of "Haitian entrant"; or
- (4) Any person who ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.
[Eff 08/01/94] (Auth: HRS §§346-14, 346-56) (Imp: HRS §346-56; 8 U.S.C. §1101(a)(42))

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§17-1723-13 Identification of a refugee.

Refugees shall possess an INS form I-94 or INS form I-151 or I-551.

- (1) The individual who began receiving financial assistance under the refugee resettlement program prior to October 15, 1980, shall possess:
 - (A) INS form I-94 with the status of "conditional entrant", "paroled", or "voluntary departure"; or
 - (B) INS form I-151 or I-551, admitted to the United States with permanent resident status on or after April 8, 1975, or has attained permanent resident as a result of an adjustment of status under Pub. L. No. 95-145.
- (2) The individual who is an applicant or recipient of refugee resettlement assistance on or after October 15, 1980, and possesses:
 - (A) INS form I-94 indicating that the individual has been admitted or paroled as a refugee or asylee if the form was issued:
 - (i) To a person from Cambodia, Laos, or Vietnam on or after June 1, 1980;
 - (ii) To a person from Cuba on or after October 1, 1978; or
 - (iii) To a person from any other country at any time;
 - (B) INS form I-94 indicating that the individual has been admitted as a conditional entrant. The "conditional entrant" status shall not be related to the "entrant" status granted Cubans and Haitians, who are not eligible under the refugee resettlement program; or
 - (C) INS form I-151 or I-551, identifying the individual as a resident alien. In addition, the person shall also have sufficient documentation to substantiate that one of the statuses indicated in subparagraphs (A) or (B) was held prior to adjustment of the person's status to that of resident alien.
[Eff 08/01/94] (Auth: HRS §§346-14, 346-56) (Imp: HRS §346-56)

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§17-1723-14 Sponsor contact. (a) The department shall notify the voluntary resettlement agency or local affiliate which provided for the initial resettlement of the refugee when a refugee applies for assistance.

(b) The department shall contact the refugee's sponsor or resettlement agency to determine what assistance is being provided the refugee and whether the refugee requesting financial assistance has refused an offer of employment or has voluntarily quit a job without good cause.

- (1) A telephone contact with the sponsor or resettlement agency shall be acceptable when a personal contact is not possible; and
- (2) Information obtained shall be recorded in the case record.

(c) The income and resources of sponsors shall not be considered in determining the refugee's eligibility.

(d) In order to meet an emergency need, the requirement for verification with the sponsor or resettlement agency shall be temporarily waived when it is not possible to reach the sponsor or resettlement agency.

- (1) The procedures for emergency processing of medical assistance shall apply; and
- (2) The necessary verification shall be obtained within forty- five days after an expedited determination of eligibility.

[Eff 08/01/94] (Auth: HRS §§346-14, 346-56) (Imp: HRS §346-56; 45 C.F.R. §§400.55, 400.93)

§17-1723-15 Eligibility for medical assistance.

(a) Refugees who qualify for medical assistance under the QUEST or ABD related medical programs shall be so categorized:

- (1) The eligibility requirements and conditions of QUEST in chapter 17-1727 shall apply;
- (2) The eligibility requirements and conditions for ABD related medical assistance in chapter 17-1721 shall apply; and
- (3) Income and assets remaining in the refugee's country of origin shall not be considered available. [Eff 08/01/94; am 05/17/97]

(Auth: HRS §§346-14, 346-56) (Imp: HRS §346-56; 8 U.S.C. §1522(e); 45 C.F.R. §400.60)

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§17-1723-16 Relationship to supplemental security income. (a) All refugee recipients under the refugee resettlement program who are sixty-five years of age or older, or who are blind or disabled shall be referred to the Social Security Administration to apply for Supplemental Security Income (SSI) benefits.

(b) State supplemental assistance to refugee SSI recipients shall be provided according to state standards. [Eff 08/01/94] (Auth: HRS §§346-14, 346-56) (Imp: HRS §346-56)

§17-1723-17 Records. The following information shall be entered in the case record of each refugee:

- (1) The name and address of the sponsor;
- (2) The name of the national voluntary resettlement agency which resettled the refugee. If a refugee was not resettled by a voluntary resettlement agency, this information shall be recorded in the case file; and
- (3) The passport or alien registration number on the form I-94. [Eff 08/01/94] (Auth: HRS §346-14, §346-56) (Imp: HRS §346-56)

§17-1723-18 Redetermination of eligibility. (a) The provisions of Chapter 17-1712 relating to redetermination of eligibility shall apply:

- (1) For medical assistance, eligibility for RMA shall be redetermined not less frequently than every six months.
- (b) The department shall contact the refugee's sponsor or resettlement agency to determine what assistance the sponsor or resettlement agency is providing and whether the refugee receiving RCA has refused an offer of employment or has voluntarily quit a job without good cause. [Eff 08/01/94] (Auth: HRS §§346-14, 346-56) (Imp: HRS §346-56; 45 C.F.R. §400.64)

§17-1723-19 Four months extended medical assistance. (a) Refugees receiving RCA or non-cost share RMA who become ineligible solely by reason of increased earnings from employment may be eligible for extended medical assistance.

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(b) The refugee's medical assistance shall be extended by a period of four months or until the refugee reaches the end of his or her time-eligibility period for RCA or RMA, whichever comes first.
[Eff 08/01/94] (Auth: HRS §§346-14, 346-56)
(Imp: 45 C.F.R. §400.104)

§17-1723-20 Administrative hearings. The procedures for administrative hearings specified in chapter 17-1703 shall apply. [Eff 08/01/94]
(Auth: HRS §346-14) (Imp: HRS §346-14; 45 C.F.R. §§211.6, 211.7, 212.4, 400.23)

§§17-1723-21 to 17-1723-23 (Reserved).

CHAPTER 1723

SUBCHAPTER 4

AFDC RELATED MEDICAL ASSISTANCE

Repealed

§§17-1723-24 to 17-1723-28 REPEALED. [Eff 08/01/94;
R 12/27/97]

§§17-1723-29 to 17-1723-30 (Reserved).

CHAPTER 17-1723

SUBCHAPTER 5

GENERAL ASSISTANCE RELATED MEDICAL REQUIREMENTS

Repealed

§§17-1723-31 to 17-1723-34 REPEALED. [Eff 08/01/94;
R 12/27/97]